

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

TYCO HEALTHCARE GROUP LP

Plaintiff,

v.

MEDICAL PRODUCTS, INC.

Defendant.

Civil Action No. 1:04-CV-11524-DPW

**JOINT MOTION REQUESTING
MODIFICATION OF SCHEDULING ORDER**

Plaintiff Tyco Healthcare Group LP (“Tyco Healthcare”) and Medical Products, Inc. (“MPI”) jointly request modification of the September 21, 2004 Scheduling Order in this matter so as to allow an additional sixty days for completion of fact discovery. The parties have engaged in on-going discovery, including document production and depositions, and believe that the additional time requested is necessary to complete discovery. In support of this motion, Tyco Healthcare and MPI state as follows:

1. On September 21, 2004, the Court issued the Scheduling Order providing for fact discovery to be completed by February 28, 2005.
2. The parties have been engaged actively in discovery, exchanging Initial Disclosures and documents, serving and responding to Requests for Production of Documents, negotiating and submitting for the Court’s approval a Joint Motion providing for a Confidentiality and Protective Order, noticing depositions of five witnesses and planning the depositions of at least five more fact witnesses, among other discovery.

3. Based on discovery to date, Tyco Healthcare anticipates the need to take discovery from non-party witnesses in Portland, Oregon and Ripley, Mississippi. The non-party depositions in Oregon include witnesses employed by CP Medical, Inc., such as Pat Ferguson and Jeff Baron, and the Mississippi depositions will include certain employees and former employees of MPI such as Christy Vandygriff, Stacey Krauss, and Jody Steverson. These witnesses were involved in the Tyco Healthcare-MPI contracts at issue in this litigation.

4. MPI has noticed the depositions of Tyco Healthcare employees Hal Lundell, Rob Cotten, and Joe Burke. These depositions are currently scheduled to take place on February 8, 11, and 18 respectively. MPI anticipates additional discovery that may include the deposition of Tyco Healthcare pursuant to Fed. R. Civ. P. 30(b)(6).

5. Additionally, there is one discovery dispute that the parties have been unable to resolve. In response to Tyco Healthcare's Request for Production of Document on December 10, 2004, MPI objected to the production of the identity of the MPI customers who purchased Tyco Healthcare products from MPI, maintaining that the customer information is a trade secret and is not relevant to this litigation. Tyco Healthcare maintains that the customers' identity is not a trade secret and is relevant to this litigation. Motions concerning this issue were filed with the Court in January of 2005.

6. Counsel for Tyco Healthcare will be out of the country from February 19 through February 27, on a previously scheduled vacation with family during school vacation week.

7. Enlargement of the deadline for completion of fact discovery from February 28, 2005 until April 29, 2005 will allow consideration of discovery that may follow the resolution by the Court of Tyco Healthcare's Motion to Compel and MPI's Motion for Supplemental Protective Order, completion of the above-referenced additional fact discovery, and determination of whether preparation for trial and trial may be made more efficient by possible expert witnesses, stipulations and/or admissions.

8. In order to accommodate the proposed modification to the deadline for completion of fact discovery, the parties respectfully propose the following modifications to the Scheduling Order:

Completion of Fact Discovery: April 29, 2005

Designation of Experts: May 13, 2005

Counter-Designations of Experts: May 27, 2005

Motions for Summary Judgment: June 24, 2005

Respectfully submitted,

MEDICAL PRODUCTS, INC.

By its attorneys:

/s/ Michael B. Galvin

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Dated: February 3, 2005

Respectfully submitted,

TYCO HEALTHCARE GROUP

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Dated: February 3, 2005